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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FORTUNATO BENITEZ RODRIGUEZ;  
et al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 07-75025

Agency Nos. A97-364-272  
A97-364-273  
A97-364-274

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted April 15, 2008<sup>\*\*</sup>

Before: B. FLETCHER, FISHER and PAEZ, Circuit Judges.

The motion to proceed in forma pauperis is granted. The Clerk shall amend

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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the docket to reflect this status.

This is a petition for review of the Board of Immigration Appeals' order affirming without opinion an Immigration Judge's ("IJ") order denying petitioners' application for cancellation of removal.

A review of the administrative record demonstrates that petitioners Flora De Maria Vasquez Peralta and Elisa Guadalupe Benitez Vasquez have presented no evidence that they have a qualifying relative for purposes of cancellation of removal as defined in 8 U.S.C. § 1229b(b)(1)(D). *See Molina-Estrada v. INS*, 293 F.3d 1089, 1093-94 (9th Cir. 2002). The IJ therefore correctly concluded that, as a matter of law, petitioners Flora De Maria Vasquez Peralta and Elisa Guadalupe Benitez Vasquez were ineligible for cancellation of removal. Accordingly, the petition for review is denied as to petitioners Flora De Maria Vasquez Peralta and Elisa Guadalupe Benitez Vasquez because the questions raised by this petition for review with respect to these petitioners are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

We have reviewed the response to the order to show cause, and we conclude that petitioner Fortunato Benitez Rodriguez has failed to raise a colorable

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constitutional or legal claim to invoke our jurisdiction over this petition for review.

*See Martinez-Rosas v. Gonzales*, 424 F.3d 926 (9th Cir. 2005); *Torres-Aguilar v. INS*, 246 F.3d 1267, 1271 (9th Cir. 2001). Accordingly, the petition for review is dismissed for lack of jurisdiction as to petitioner Fortunato Benitez Rodriguez. *See* 8 U.S.C. § 1252(a)(2)(B)(i); *Romero-Torres v. Ashcroft*, 327 F.3d 887, 892 (9th Cir. 2003); *Montero-Martinez v. Ashcroft*, 277 F.3d 1137, 1144 (9th Cir. 2002).

All other pending motions are denied as moot. The temporary stay of removal and voluntary departure confirmed by Ninth Circuit General Order 6.4(c) and *Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004), shall continue in effect until issuance of the mandate.

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**